W.P. No. 1827 of 2003 (S/S)
(Old No. 2216 of 1993)

M.M. Ghildiyal, J.

Heard. W.P. is decided.

Detail order passed on separate sheets as placed in W.P. no. 1828/03 (S/S).

Date:31.07.2007

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL.

(1)-Writ Petition No. 1828 (S/S)2003
Old No.5718 (SB)/1992

Mohd. Naseem, Survey Kanoongo,
Posted in District Dehradun. ---Petitioner.

Vs.

1. State of U.P. through Commissioner & Secretary, Board of Revenue, U.P. Lucknow,
2. Collector, Dehradun,
3. Assistant Record Officer, Dehradun,
4. Kaustubha Nand Pant, Survey Lekhpal, Working under O.P. No.1,
5. Vichitra Narain, Survey Kanoongo, Working under O.P. No. 1. - --Respondents.

None for the petitioner.
Sri Paresh Tripathi, learned Standing Counsel for the State of Uttarakhand.

AND
(2)-Writ Petition No. 1827(S/S)2003
(Old no. 2216 (SS)1993)

Kaustubha Nand Pant S/o Sri Chandra Prakash Pant,
Survey Kanoongo, Dehradun. ---Petitioner.

Vs.

1. State of Uttar Pradesh through the Secretary, Revenue Department, Govt. Of U.P., Civil Secretariat, Lucknow.
2. The Board of Revenue, Uttar Pradesh, Lucknow, through the Secretary.
3. The District Magistrate/ District Records Officer, Dehradun. ---Respondents.

Sri Pankaj Miglani, learned counsel for the petitioner.
Sri Paresh Tripathi, learned Standing Counsel for the State of Uttarakhand.

Hon'ble M.M. Ghildiyal, J.

None is present on behalf of the petitioner Sri Mohd. Naseem. Heard Sri Pankaj Miglani, learned counsel for

Petitioner- Sri Kaustubha Nand Pant and Sri Paresh Tripathi, learned Brief Holder for State of Uttarakhand.

Since the controversy, which is involved in these writ petitions, if be decided, will put consequential effect on each other, therefore; for the sake convenience both these writ petitions have been consolidated and are being decided by a conman judgment.

By means of writ petition no. 1828(ss)03, the petitioner-Mohd. Naseem has challenged the order dated 25th July 1992 passed by the Secretary-cum-Commissioner, Board of Revenue, U.P. Lucknow which was passed on the representation of petitioner-Sri Kaustubha Nand Pant -Survey Lekhpal wherein Sri Kaustubha Nand Pant has submitted that though Sri Mohd. Naseem was junior to him, but Sri Mohd. Naseem has been provided Promotion on the post of Survey Kanoongo. Therefore, considering the character entries of both the petitioners, the Secretary-cum-Commissioner, Board of Revenue, U.P. Lucknow allowed the representation of Sri Kaustubha Nand Pant and set-aside the order of District Magistrate/ Record Officer, Unnav with the direction to revert Sri Mohd. Naseem on the post of Survey Lekhpal and passed order promoting Sri Kaustubha Nand Pant on the post of Survey Kanoongo.

The Commissioner-cum-Secretary, Board of Revenue while deciding the representation of Sri Kaustubha Nand Pant has held that Sri Mohd. Naseem was certainly junior to Sri Kaustubha Nand Pant and while promoting Sri Mohd. Naseem, the District Magistrate/Record Officer, Unnav has ignored the fact that the entry awarded to Sri Mohd. Naseen for the last five years were not upto the mark whereas; the entries awarded to

Sri Kaustubha Nand Pant were comparatively much-much better. In spite of this substantial aspect the District Magistrate has provided promotion to Sri Mohd. Naseem, consequently the Commissioner-cum-Secretary directed for reversion of Sri Mohd. Naseem on the post of Survey Lekhpal and passed order Promoting Sri Kaustubha Nand Pant on the post of Survey Kanoongo. This order was under challenged in writ petition no. 1828 (ss)03 and the Allahabad High Court on 06.01.1993 stayed operation of the impugned order dated 25th July 1992 till further orders of the Court and directed the respondents to permit Sri Mohd. Naseem to continue as Survey Kanoongo.

In pursuance of the order passed by the Allahabad High Court on 06.01.1993 in writ petition no. 1828(ss)03, the respondent- District Magistrate cancelled promotion of Sri Kaustubha Nand Pant reverting him back to the post of Survey Lekhpal and Sri Mohd. Naseen was directed to continue on the post of Survey Kanoongo.

I have perused the order dated 25th June 1992 passed by the Board of Revenue and have also gone through the counter affidavit filed by the respondents in the aforesaid writ petition.

Having heard learned counsel for the parties and perusing of the record it is clear that Sri Mohd. Naseem was junior to Sri Kaustubha Nand Pant and Sri Pant was also having good character roll entries whereas; there were some adverse entries marked in the character roll of Sri Mohd. Naseem. In these circumstances, I find that the order passed by the Commissioner-cum-Secretary, Board of Revenue dated 25th July 1992 is absolutely correct. Consequently, the writ petition no. 1828(ss)2003 is liable to be dismissed.

Now remains the controversy raised in writ petition no. 1827(ss)2003 which has been filed by Sri Kaustubha Nand Pant against the order dated 15th February 1993 passed by the District Magistrate, Dehradun canceling earlier orders dated 01.09.1992 and 03.09.1993 passed by himself in this regard by which Sri Pant was promoted on the post of Survey Kanoongo. This order dated 15th Feb. 1993 was passed by the District Magistrate keeping in view of the interim order dated 06.01.1993 passed by Allahabad High Court in writ petition no. 1828(ss)2003.

Since by this very order this Court has come to the conclusion that the writ petition no. 1828(ss)03 has no merit and is liable to be dismissed, therefore, the order dated 15th February 1993 passed by the District Magistrate/ Record Officer, Dehradun is liable to be quashed. The petitioner- Sri Kastubha Nand Pant is already working on the post of Survey Kanoongo, on the basis of interim order dated 26th March 1993 Passed by Allahabad High Court.

Accordingly, the writ petition no. 1828(ss)2003 is dismissed. Interim order dated 06.01.1993 is hereby vacated.

The writ petition no. 1827(ss)2003 is allowed. Impugned order dated 15th February 1993 passed by the District Magistrate/Record Officer, Dehradun is hereby quashed. No order as to costs.

Let a certified copy of this order be placed in writ petition no. 1827(ss)2003.

(M.M. Ghildiyal, J.)

July 31, 2007:
NCM:

IN THE HIGH COURT OF UTTARAKHAND AT NAINITAL.

Writ petition No. 1828(S/S) 2003
Old No.5718 (SB)/ 1992

Mohd. Naseem,
Survey Kanoongo,
Posted in District- Dehradun. **…….Petitioner.**

Versus

1. State of U.P. through Commissioner & Secretary, Board of Revenue, U.P. Lucknow.
2. Collector, Dehradun.
3. Assistant Record Officer, Dehradun.
4. Kaustubha Nand Pant, Survey Lekhpal, working under O.P. No.1.
5. Vichitra Narain, Survey Kanoongo, working under O.P. No. 1.

.....Opposite Parties

A N D

Writ Petition No. 1827 (S/S) 2003
(Old no. 2216 (SS) 1993)

Kaustubha Nand Pant,
S/o Sri Chandra Prakash Pant,
Survey Kanoongo,
Dehradun. **…….Petitioner.**

Versus

1. State of Uttar Pradesh through the Secretary, Revenue Department, Govt. of U.P., Civil Secretariat, Lucknow.
2. The Board of Revenue, Uttar Pradesh, Lucknow, through the Secretary.
3. The District Magistrate/ District Records Officer, Dehradun.

…….Respondents.

Hon'ble M.M. Ghildiyal, J.

Heard Sri Rakesh Thapliyal, learned counsel for the petitioner – Sri Mohd. Naseem, Sri Pankaj Miglani, learned counsel for petitioner- Sri Kaustubha Nand Pant and Sri

H.M. Raturi, learned Standing Counsel for State of Uttarakhand on behalf of respondents.

Since the controversy, which is involved in these writ petitions, if be decided, will put consequential effect on each other, therefore; for the sake convenience both these writ petitions have been consolidated and are being decided by a conman judgment.

By means of writ petition no. 1828 (S/S) of 2003, the petitioner- Mohd. Naseem has challenged the order dated 25th July 1992 passed by the Secretary-cum-Commissioner, Board of Revenue, U.P. Lucknow which was passed on the representation of petitioner- Sri Kaustubha Nand Pant – Survey Lekhpal wherein Sri Kaustubha Nand Pant has submitted that though Sri Mohd. Naseem was junior to him, but Sri Mohd. Naseem has been provided promotion on the post of Survey Kanoongo. Therefore, considering the character entries of both the petitioner the Secretary-cum-Commissioner, Board of Revenue, U.P. Lucknow allowed the representation of Sri Kaustubha Nand Pant and set-aside the order of District Magistrate/ Record Officer, Unnav with the direction to revert Sri Mohd. Naseem on the post of survey lekhpal and passed order promoting Sri Kaustubha Nand Pant on the post of Survey Kanoongo.

The Commissioner-cum-Secretary, Board of Revenue while deciding the representation of Sri Kaustubha Nand Pant has held the Sri Mohd. Naseem was certainly junior to Sri Kaustubha Nand Pant and while promoting Sri Mohd. Naseem, the District Magistrate/Record Officer, Unnav has

ignored the fact that the entry awarded to Sri Mohd. Naseen for the last five years were not upto the mark whereas; the

entries awarded to Sri Kaustubha Nand Pant were comparatively much-much better. In spite of this substantial aspect the district magistrate has provided promotion to Sri Mohd. Naseem, consequently the Commissioner-cum-Secretary directed for reversion of Sri Mohd. Naseem on the post of Survey Lekhpal and passed order promoting Sri Kaustubha Nand Pant on the post of Survey Kanoongo. This order was under challenged in writ petition no. 1828 (SS) of 2003 and the Allahabad High Court on 06.01.1993 stayed operation of the impugned order dated 25th July 1992 till further orders of the court and directed the respondents to permits Sri Mohd. Naseem to continue as survey kanoongo.

In pursuance of the order passed by the Allahabad High Court on 06.01.1993 in writ petition no. 1825 (SS) of 2003, the respondent-district magistrate cancelled promotion of Sri Kaustubha Nand Pant reverting him back to the post of Survey Lekhpal and Sri Mohd. Naseen was directed to continue on the post of Survey Kanoongo.

In have perused the order dated 25th July 1992 passed by the Board of Revenue and have also gone through the counter affidavit filed by the respondents in the aforesaid writ petition.

Having heard learned counsel for the parties and perusing of the record it is clear the Sri Mohd. Naseem was junior to Sri Kaustubha Nand Pant and Sri Pant was also having good character roll entries whereas; there were some adverse entries marked in the character roll of Sri Mohd. Naseem. In these circumstances, I find that the order passed by the Commissioner-cum-Secretary, Board of revenue dated 25th July 1992 is absolutely correct.

Now remains the controversy raised in writ petition no. 1827 (SS) of 2003 which has been filed by Sri Kaustaubha

Nand Pant against the order dated 15th February 1993 passed by the District Magistrate, Dehradun canceling earlier orders dated 01.09.1992 and 03.09.1993 passed by himself in this regard by which Sri Pant was promoted on the post of Survey Kanoongo. This order dated 15th February 1993 was passed by the District Magistrate keeping in view of the interim order dated 06.01.1993 passed by Allahabad High Court in writ petition no. 1828 (SS) of 2003.

Since by this very order this court has come to the conclusion that Mohd. Naseem was junior to Sri Kaustubha Nand Pant and order passed by Commissioner cum Secretary, Board of Revenue 25.07.1992 is absolutely correct, therefore, the order dated 15th February 1993 passed by the District Magistrate/Record Officer, Dehradun is liable to be quashed. The petitioner- Sri Kaustubha Nand Pant is already working on the post of Survey Kanoongo, on the basis of interim order dated 26th March 1993 passed by Allahabad High Court. Interim order dated 06.01.1993 is hereby vacated.

Accordingly, then writ petition no. 1827 (S/S) of 2003 is allowed. Impugned order dated 15th February 1993 passed by is the District Magistrate/Record Officer, Dehradun is hereby quashed. No order as to costs.

Sri Rakesh Thapliyal, learned counsel for the petitioner – Mohd. Naseem has submitted that number of persons, who are junior to the petitioners, are working on the post of Survey Kanoongo and he is also in the zone of consideration for regular promotion on the post of survey Kanoongo.

Petitioner may make representation before respondent no. 1 raising all his grievances and if such a situation is there, as stated aforesaid, respondent no. 1 shall take decision on the representation of the petitioner, if any, moved by the petitioner- Mohd. Naseem for his continuation on the post of Survey Kanoongo.

With this direction writ petition no. 1828 (SS) of 2003 is finally disposed of. No order as to costs.

Let a certified copy of this order be placed in writ petition no. 1827 (SS) 2003.

(M.M. Ghildiyal, J.)

August 30, 2007:
SKS